

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,
Plaintiff/Movee,
v.
SHERRIE SHUTT,
Defendant/Movant.

2:06-cr-0210-LDG

**ORDER GRANTING 28 U.S.C. § 2255
POST-CONVICTION MOTION**

Before this Court is Defendant/Movant Shutt's post-conviction Motion alleging this Court based the supervised release revocation sentence imposed on May 5, 2011 (docket # 1123) on erroneous factual information regarding Shutt's likely medical and maternal treatment once received by the federal Bureau of Prisons to serve the nine-month sentence imposed by this Court. Shutt alleges this error constitutes a violation of her due process right to a fair sentencing proceeding.

Upon consideration of the Motion and upon hearing argument of counsel, THIS COURT FINDS THAT it based its decision to remand Shutt to immediate federal Bureau of Prisons custody on May 5, 2011, on the belief that Shutt would be eligible for, and placed in, the Bureau of Prisons' Mothers and Infants Nurturing Together (MINT) program in time to assist Shutt through the final trimester of her pregnancy;

THAT, based on the amount of time required to designate, transportation difficulties, and Shutt's apparent high risk pregnancy, it is now evident this Court's initial beliefs regarding applicability of the MINT program were in error;

THE COURT FINDS that, had the Court been aware of the situation regarding the MINT program as understood today, this Court would have altered its sentencing decisions relevant to Shutt's incarceration during the end of her pregnancy and the immediate weeks after child birth;

ACCORDINGLY, Defendant/Shutt's FIRST 2255 MOTION (docket # 1123) is hereby ORDERED conditionally GRANTED;

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1 THAT the JUDGMENT ON REVOCATION OF SUPERVISED RELEASE (docket # 1116) is
2 HEREBY VACATED;

3 THAT Defendant/Movant's SHUTT'S admissions to violations, and this Court's findings of
4 violations, on and during the May 5, 2011 revocation hearing (docket # 1116) remain legally actionable
5 and viable;

6 THAT FURTHER, this Court's oral sentencing imposed during the May 5, 2011 revocation
7 hearing is HEREBY SUSPENDED until the August 31, 2011, status check hearing;

8 THAT, pending the August 31, 2011 proceeding, Defendant/Movant SHUTT shall remain under
9 the supervision of the federal Office of Probation as directed and ordered by the magistrate court's order
10 of release (docket # 1104).

11 The Clerk shall enter judgment accordingly.

12 DATED this 27 day of June, 2011.

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UNITED STATES DISTRICT JUDGE